

**CLAIM 5987 RESPONSE TO
FIFTEENTH OMNIBUS OBJECTION
ASBESTOS PROPERTY DAMAGE CLAIMS**

FILED

2005 OCT 18 AM 10:13

**US BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

U.S. BANKRUPTCY COURT
DISTRICT OF DELAWARE

Chapter 11
Case no. 01-01139 (JKF)

I am Dale Johnson, claimant # 5987, in the case above. I purchased the subject property, Shaw Terrace Apts in the city of Fresno, Ca in 1992.

Exhibit C-1 (D)

(1) The date of installation of the product is unknown exactly, but sometime in the year 1960, as I stated on the original claim form. There are no longer records at the city pertaining to any details of construction, nor do I have any in my possession.

(2) I do not know what product was used, and did not find out conclusively that the product (acoustic ceiling spray) contained asbestos until 2001 when testing was done prior to replacing a storm damaged ceiling in one apartment.

(3) Again, I stated in the original claim that I learned of the presence of asbestos in the year 2001, and submitted information in that regard. I will enclose that info with this response.

(4) I have never been a claimant or involved with an asbestos lawsuit.

Exhibit C-2

(1) I did not indicate I had any documentation relating to the purchase and/or installation of the product on the property, nor do I now.

(2) I did attach documents showing the removal and replacement of an acoustic ceiling containing asbestos in May 2001. I included the Proposal and Acceptance from All-American Construction and Development showing the costs related to the removal, a Uniform Hazardous Waste Manifest by the local governing agency for asbestos removal, (San Joaquin Valley Unified Air Pollution Control District), and a letter from the State Board of Equalization informing lucky me that I now have an EPA identification number (CAC002348823) and reason to bill me. I think the paperwork I submitted conclusively shows the presence of asbestos in the

apartment ceilings.

(3) Answered above.

Exhibit D-1 (C)


There is no evidence supporting their claim the acoustical ceilings have been replaced. I have not replaced any since the purchase in 1992. Based upon the minimum work that was done to the property prior to my purchase, it is very doubtful that any ceiling work was done earlier. For example-prior to my purchase, not one bathtub, or vanity had been replaced. Only one kitchen had been remodeled, and that was due to fire. Even the original GE built-in stoves remained. The tenants were students at Fresno State for the most part, and it would have been financially stupid to replace something they would never notice. Also, the age of the ceilings is apparent as in places they have sagged off the underlying sheetrock. And, if the ceilings had been replaced, why would they again use an asbestos compound?

Exhibit D-2, D-6, E-1 I have no response to these statements.

Claim Amount:

The projected cost to remove and replace the acoustic ceilings is \$79,000 (\$5.25 per square foot x 535 sq. ft. per apartment x 28 units). Most of the cost is for hazardous waste disposal.

Dale Johnson



October 13, 2005

cc

Katherine Phillips
Kirkland and Ellis LLP
200 East Randolph Drive
Chicago, IL 60601

James E. O'Neill
Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C.
919 North Market Street, 16th Floor, P.O. Box 8705
Wilmington, DE, 19899-8705 (Courier 19801)

Sacramento, California

UNIFORM HAZARDOUS
WASTE MANIFEST

1. Generator's US EPA ID No.

Manifest Document No.

2. Page 1

Information in the shaded areas
is not required by Federal law.

C A C 0 0 2 3 4 8 8 2 3

6 8 7 9 5

of 1

20968795

3. Generator's Name and Mailing Address

Dale Johnson
P. O. Box 2506
Oakhurst, CA 93644-2506

4. Generator's Phone 559 221-1427

5. Transporter 1 Company Name

APC Contractors, Inc.

6. US EPA ID Number

C A D I 2 0 B D A 4 9 7

7. Transporter 2 Company Name

8. US EPA ID Number

9. Designated Facility Name and Site Address

Forward, Inc. Landfill
9999 Austin Road
Manteca, CA 95336

10. US EPA ID Number

C A L 0 0 0 1 0 0 0 0 0

A. State Manifest Document Number

B. State Generator's ID

C. State Transporter's ID (Reserved)

D. Transporter's Phone
(559) 275-7099

E. State Transporter's ID (Reserved)

F. Transporter's Phone

G. State Facility's ID

C A L 0 0 0 1 0 0 0 0 0

H. Facility's Phone

(209) 982-4298

11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)

RQ, ASBESTOS, 9, NA2212, PGIII

12. Containers

No.

Type

13. Total
Quantity14. Unit
Wt/Vol

1. Waste Number

002 B A 00002 Y

151

EPA/Other

State

EPA/Other

State

EPA/Other

State

EPA/Other

12. Additional Descriptions for Materials Listed Above

100% ACM Acoustical

Approval #753310

K. Handling Codes for Wastes Listed Above

a. 03

15. Special Handling Instructions and Additional Information

Project: Shaw Terrace Apartments, 2255-2297 E. Shaw

Unit D, Fresno, CA 93726

EMERGENCY CONTACT (800) 359-4555

Governing Agency:

San Joaquin Valley Unified Air Pollution Control District

1990 E. Gettysburg

Fresno, CA 93726

16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.

If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Printed/Typed Name

Johnson

Signature

Dale Johnson

Month Day Year

P P E P P V

17. Transporter 1 Acknowledgement of Receipt of Materials

4606 N. Bendel Avenue Fresno, CA 93722

Printed/Typed Name

Dale Johnson

Signature

Dale Johnson

Month Day Year

P P E P P V

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Month Day Year

19. Discrepancy Indication Space

20. Facility Owner or Operator Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.

Printed/Typed Name

Signature

Month Day Year

DO NOT WRITE BELOW THIS LINE.


**ALL AMERICAN CONSTRUCTION
& DEVELOPMENT**

 5804 E. BROWN AVE., STE. #104
 FRESNO, CA 93727-1361

(559) 291-8006

Contract # T0501Johnson

**PROPOSAL AND
ACCEPTANCE**

PROPOSAL SUBMITTED TO Dale Johnson	PHONE 559-221-2297	DATE 5/8/01
STREET 2255-2297 E. Shaw Ave.	JOB NAME Johnson Storm Repairs	
CITY, STATE, AND ZIP CODE Fresno, Ca	JOB LOCATION 2255-2297 E. Shaw Ave.	
INSURANCE ADJUSTER: California Insurance Group/ J. Eastwood	JOB PHONE 559-221-2297	

We hereby submit specifications and estimates for: Storm Repairs

SEE SPECIFICATIONS SHEET FOR FURTHER DEATAILS

 221 1427
 (Handwritten note with an arrow pointing to the job phone number)
CALIFORNIA ONLY:

NOTICE TO OWNER: Contractors are required by law

to be licensed and regulated by the contractors'

state license board. Any questions concerning a

contractor may be referred to the registrar of the

board whose address is: Contractors' State License

Board, 9835 Geahe Rd., Sacramento, CA 95827.

All American Construction is fully bonded and insured.

Thank you for calling All American Construction!

We Propose hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:

Five-thousand, Six-hundred, Fifty-one Dollars and 41/100

\$5,651.41

Payment to be made as follows:

Prepaid deductible, balance on completion.

AN 18% INTEREST RATE CHARGE WILL BE CHARGED ON ACCOUNTS OVER 30 DAYS DELINQUENT.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays, beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workmen's Compensation insurance.

 Authorized
 Signature

Troy Pace

 Note: This proposal may be withdrawn by
 us is not accepted within 30 days.
Acceptance of Proposal - The above prices, specifications

and conditions are satisfactory and are hereby accepted. You authorize

to do the work as specified. Payment will be made as outlined above.

Signature

Date of Acceptance 5-9-2001

Signature



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

SPECIAL TAXES DEPARTMENT, ENVIRONMENTAL FEES MIC:57
 450 N STREET, SACRAMENTO, CALIFORNIA 95814-0057
 PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0057
 TELEPHONE (916) 323-9555
 FAX (916) 327-0859
 www.boe.ca.gov

JOHAN KLEHS
 First District, Hayward

DEAN ANDAL
 Second District, Stockton

CLAUDE PARRISH
 Third District, Torrance

JOHN CHIANG
 Fourth District, Los Angeles

KATHLEEN CONNELL
 State Controller, Sacramento

JAMES E. SPEED
 Executive Director

Date July 30, 2001

THE SHAW TERRACE APT
 PO BOX 2506
 OAKHURST CA 93644-0000

EPA No.: CAC002348823
 2255 E SHAW AVE

The Department of Toxic Substances Control (DTSC) has furnished the Board of Equalization with information indicating that you are a recent recipient of an EPA identification number. The State Board of Equalization administers six hazardous waste fee programs in cooperation with the DTSC. As a holder of a state or federal EPA ID number you may also be required to register with the Board to report your generator activities.

If you generate or produce five or more tons of hazardous waste per calendar year at this site, regardless of the final disposition of the waste, you should contact the State Board of Equalization to obtain a hazardous waste generator fee account number. Utilization of a waste hauler or a hazardous waste contractor to remove your hazardous waste does not relieve you of the liability for the fees that result from the generation, recycling and/or disposal of your hazardous waste. Additional information regarding generator fees is available in Regulation 3000, 'Generator of Hazardous Waste.' The regulation is available on our website or may be ordered free from the Board's Information Center by calling toll-free 1 (800) 400-7115.

To apply for a generator fee account or for answers to your specific questions, please contact us at (916) 323-9555, or write:

Environmental Fees Division, MIC:57
 State Board of Equalization
 PO Box 942879
 Sacramento, CA 94279-0057

For additional information regarding the Generator Fee program or any other tax programs administered by the Board of Equalization please visit our website at www.boe.ca.gov. This site will provide you with general information about the programs administered by the Board, forms, publications, newsletters, proposed legislation, and links to other government sites.

ENVIRONMENTAL FEES DIVISION